



Executive Order 12-04

Supporting and strengthening implementation of the state's wetland policy

Received Comments
October 25, 2012

Issue #1: De minimis Exemption.

- This exemption for northern counties should not be diminished. The exempt area should be increased for economic development purposes or establish a grant program to offset wetland credit cost. (City of International Falls, Economic Development Authority)
- It would be appropriate to further consider the type of project which is seeking to exercise the exemption. The WCA de minimis is not project specific it could be argued that the other WCA exemptions are project specific de minimis allowances. That said the exemption content could be expanded to consider specific project types, perhaps specifically those projects which address a greater good (TMDL, wetland avoidance, etc.) and with that some contraction/simplification of the current de minimis exemption itself as it results in burdensome administration. (Rice Creek Watershed District)
- There should be flexibility in the greater than 80% counties, keeping a minimum or increasing the 10,000 square feet exemption. (Lake of the Woods SWCD)
- Streamlining the de minimis exemptions to reduce burdens at the local level of implementing, tracking and administering the exemptions. Streamlining may also reduce confusion by local landowners and project proposers (Mn Department of Agriculture)
- A fundamental difference between WCA and Clean Water Act Section 404 is that the WCA exemptions are type and location based, whereas Section 404 exemptions are activity based. We were able to determine that 400 square feet of wetland impacts is minimal on a statewide basis, it is uncertain whether we could reach that determination on a 10,000 square feet of impact. Further the analysis associated with these determinations would be prohibitive for all of the WCA exemptions. The current exemption framework is complex both from a public understanding perspective and a coordination perspective. The effect of any proposed changes should consider their impact on streamlining regulatory processes. (U.S. Army Corps of Engineers)
- De minimis quantities vary by location in the state, by the type of wetland impacted, and the proximity of the project to shoreland. The result of this is a convoluted system of determining the de minimis values for a given project. As the reported annual permanent wetland impacts from the de minimis exemption have averaged 17.55 acres, the complexity of the requirements does not seem to be warranted. We believe that the de minimis exemption be retained, but that it be simplified. (SEH)
- The impacts from the de minimis exemption cannot be accurately assessed because landowners do not need to notify the LGU or formally apply. It is our perception that the number of applications we receive is a small fraction of the activity that has actually occurred. (Stearns County)
- The cumulative impact provisions are still important and needed, however if the intent is to not allow a combination of de minimis exemptions on an individual wetland than the Statute and Rule should be changed to reflect this. (Stearns County)

- Different de minimis amounts should apply to different wetland types, but using Circular 39 types does not best protect our wetland resources. Better protection would be afforded our wetlands if the determining factor were wetland quality. If a standard based on quality is not feasible, then all wetland types should have the same de minimis. We have not seen an intrinsic higher value for wetlands of the different Circular 39 types. (Stearns County)
- Allowing different de minimis amounts to apply to different geographic areas has merit; however shoreland areas should have higher protection by elimination of the 20 square foot amount. In addition, this amount is so small that virtually no projects meet the criteria. (Stearns County)
- Concerning whether a simpler de minimis would enhance compliance, the best route to compliance is to require the landowner to file an application for the de minimis. The current Rule is not so complicated that it is not understandable. That being said, the Rules should be changed repeatedly. The difficulties in administration come from the landowners not needing to apply and the amounts changing repeatedly. (Stearns County)
- There has been some discussion of moving away the current wetland type criteria. While this may make sense, we feel there needs to be more research conducted and shared with stakeholders to determine what the practical impact of such a change would mean before it is proposed and implemented. (Minnesota Farm Bureau)
- Exemptions do contribute to the loss of wetlands. (Local Government Meeting – Grand Rapids)
- Exemptions should require sequencing which would allow for better tracking of impacts. (Local Government Meeting – Grand Rapids)
- Need better data to track and understand if replacement ratio is covering the exemptions. Depending on results of data may need to increase/decrease ratios to allow for exemptions. Required reporting? (Local Government Meeting – Grand Rapids)
- Some counties have stronger ordinance requirements so De minimus is already used with sequencing component. (Local Government Meeting – Grand Rapids)
- Differing amount for wetland types should remain. (Local Government Meeting – Grand Rapids)
- Shoreland should only have one number. (Local Government Meeting – Grand Rapids)
- Very cumbersome in the shoreland zone. (Local Government Meeting – Detroit Lakes)
- Multi-landowner allowances on the same wetland should be capped. (Local Government Meeting – Detroit Lakes)
- Cumulative impact provision (5%) needs to remain. (Local Government Meeting – Detroit Lakes)
- Require "sequencing" for de minimis - if a project can occur well under the allowed, it should be the lesser amount. (Local Government Meeting – Detroit Lakes)
- The de minimis between the building setback zone and waterbody should be zero (0 sf). (Local Government Meeting – Detroit Lakes)
- The *de minimis* should be simplified by setting an amount that applies in all cases and that varies based on the portion of the state. I once administered a permit for a wetland impact for 67 SF for a new railroad bridge crossing a creek, this was inefficient for the LGU. If such small impacts are still going to be regulated, the permitting should be simplified - requiring minimal review by TEP, shorter review periods, and (especially for the >80% counties) greater flexibility in replacement siting. The paperwork required for that small impact was the same as it is for larger impacts (though the review was easier).

The maximum exempt area in the >80% are should stay the same or be somewhat smaller; however, impacts that exceed the exemption standard should be easy to permit and replacement siting criteria should be removed. Essentially creating two levels of *de minimis*: for the smallest areas - impacts are exempt; for larger areas (up to some maximum), the impacts are regulated, but the approval process is simplified and/or replacement can be located statewide. A proposal is:

- For impacts in the >80% counties
 - Impacts less than 5,000 SF are exempt in all wetland types
 - Impacts greater than 5,000 SF but less than 1 acre, require an application and 1:1 replacement through wetland banking statewide.
- For impacts in the 50-80% counties
 - Impacts less than 2,500 SF are exempt in all wetland types
 - Impacts greater than 2,500 SF but less than 1 acre, require an application and 2:1 replacement through wetland banking statewide.
- For impacts in less than 50% counties
 - Impacts less than 1,000 SF are exempt in all wetland types
 - Impacts greater than 1,000 SF but less than 1 acre, require an application and 2:1 replacement through wetland banking in the same bank service area; or 2.5:1 replacement through wetland banking at any wetland bank outside the same bank service area. Wetland banking need not follow the priority order for siting of wetland replacement. (Daniel Tix – Barr Engineering)

Issue #2: Alignment of Pre-Settlement Zones on Watershed Boundaries.

- We generally support the conversion of planning/regulatory boundaries on basins (Major – HUC 4?) rather than the political boundaries of counties. It will make permitting more complicated but these will become less significant with time. (MPCA)
- While it may be administratively conducive for administrative purposes to continue the current system based on county boundaries, BWSR should consider the option of moving towards a system that is based on watershed boundaries versus county boundaries. The current county boundary approach may continue to limit some wetland transactions or may continue to place wetland banking pressure on certain regions of the state. (Mn Department of Agriculture)
- Functions and values need to be addressed more so than acre for acre/no net loss. (Lake of the Woods SWCD)
- There is no corollary to the presettlement wetland approach in the Section 404 program. However, in the interests of streamlining and coordination, the District has incorporated these concepts, to the extent allowed under our regulations, into our wetland mitigation policy. We generally support aligning pre-settlement wetland zones on watershed boundaries if the purpose was to advance the long-term protection and enhancement of Minnesota’s wetlands and would simultaneously improve the decision making processes. As any such changes would affect our program, we request to be kept informed. (U.S. Army Corps of Engineers)
- The presettlement wetland zones works fairly well to divide the less than 50% and greater than 80% counties, the 50-80% zone presents. This is compounded when compared with the Bank Service Area concept used by the U.S. Army Corps of Engineers. Replacement of the county-level approach with a watershed approach would provide an ecological basis for decision making, and would be consistent with federal requirements. (SEH)
- Any differentiation of administration based in watershed boundaries will make administration more challenging. Administration is currently on county boundaries, which are known to the public. If the current trend in environmental regulation is to abide by watershed boundaries, then all aspects of WCA use the same boundaries. (Stearns County)

- We support moving away from basing mitigation ratios and siting requirements on pre-settlement zones and moving towards using wetland service bank areas. Using a hydrological connection versus a line on a map connection needs to be explored. (Minnesota Farm Bureau)
- Need to keep pre-settlement wetland zones. (Local Government Meeting – Grand Rapids)
- Maybe add a fourth zone for the >90% counties with an increased De minimus. (Local Government Meeting – Grand Rapids)
- Mitigation siting should be based on functions and value, not just location. (Local Government Meeting – Grand Rapids)
- Ecotype or BSA makes more sense than just zones for mitigation siting. (Local Government Meeting – Grand Rapids)
- Would make things more complex, especially for counties located in multiple basins. (Local Government Meeting – Grand Rapids)
- Keep the existing zones along county lines - there would be operational difficulties in changing the system. (Local Government Meeting – Detroit Lakes)
- Interest exists in using modern data (better than Anderson & Craig) to revise minor watershed lines to allow replacement transactions within watershed boundaries but across pre-settlement wetland zones (from <50% to 50-80% if within same watershed) (Local Government Meeting – Detroit Lakes)
- Bank owners in <50% can be limited in their marketability due to siting criteria (Local Government Meeting – Detroit Lakes)
- As the state is thinking about moving toward a watershed based planning format for local water management plans, this kind of watershed management based planning can also have important contributions to the effective implementation of WCA. With this large watershed based vision, local TEPs and other management bodies can provide better assessment of smaller projects based upon the landscape planning efforts. (Mille Lacs County)

Issue #3: Consistent Review, Approval and Implementation.

- Pedestrian, bicycle and transit modes should be eligible for the BWSR Road Replacement Program. Safe Routes to School, Complete Streets, and recent federal transportation bills all stress the importance of developing a balanced transportation system. (Blue Earth County Highway Department)
- The definition of a serviceable public road needs to be clarified under the BWSR Local Government Road Wetland Replacement Program; the authority to define should remain with the road agency. (Blue Earth County Highway Department)
- Issuance of the permit to mine should be separate from wetland mitigation. The DNR should continue to handle the permit to mine, but BWSR (possibly the TEP) should handle the mitigation. (Josh Stromlund, Lake of the Woods County)
- The permitting process for wetland restoration for restoring wetlands needs to be simplified to reduce redundancy of permits at the local level. If a private landowner submits a permit application through WCA and the application meets county requirements, no further permitting should be required, such as from the township or watershed district. (U.S. Fish and Wildlife Service)
- Replacement ratios should be modified to take into account the actual benefit offered by a particular wetland rather than an arbitrary ratio. (Minnesota Association of Townships)
- The US Army Corps of Engineers and BWSR need to align their rules and processing of applications. As with recent experiences related to projects that include the Anoka County Ditch 15 /Judicial Ditch 4 repair and wetland restoration project, the repair project review /approval and the review /approval for the wetland mitigation banking have been essentially totally separated. There is a need for BWSR to consider closer coordination between State and Federal agencies in regulation and review process of applications and in the future eliminate the “dual-track process”. (Rice Creek Watershed District)

- There is a need to resolve the conflict between the Public Waters Law and the Wetland Conservation Act, particularly in the urban landscape. Urban watershed districts struggle with the public waters management framework, currently implemented by DNR staff, which limits the regional management priorities for water quality treatment options in public water wetlands in the urbanized portion of the District. These public waters wetlands in many instances already function as stormwater management facilities. This resolution must establish policy that balances onsite protection and also the protection of downstream impaired and high-priority water bodies. (Rice Creek Watershed District)
- WCA should not be a barrier to restoring hydrology that is inadvertently affected by an off-property project. (Perry Wagamon)
- BWSR should explore the assumption of Section 404 of the Clean Water Act from the U.S. Army Corps of Engineers. The duplication between WCA and Section 404 is extensive and may be addressed via total or partial assumption. This effort should involve Road Authorities and other stakeholders. (St. Louis County Public Works Department)
- BWSR's administrative interpretation of the Road Bank eligibility criteria is overly narrow. The existing interpretation does not support the Road Authority's obligation to make needed multi-modal safety improvements and has forced Public Works to purchase credits on the open market for safety improvements. When the balancing test in the Part D language has been proved, the entire scope of work should be eligible for replacement from the Road Program. BWSR should compare the rule language with the official policy and update the policy as needed, and should meet with Road Authority stakeholders to discuss current Road Bank policies and revise the policy as warranted by these conversations. (St. Louis County Public Works Department and Mn Inter-County Association)
- BWSR should assume Section 404 or take intermediary steps. Effectively looking to WCA only for purposes of wetlands regulation in Minnesota may not be possible because of differing policies under WCA and Corp's interpretation of Section 404, one party administering both laws would minimize situations where the Corps determines the wetland is one type while the technical evaluation panel says it is another. Creation of general permit or certification for section 404 would be a positive step towards consistent administration. (Mn Inter-County Association)
- Simplification – Compress the current delineation of multiple wetland types and multiple differing requirements. (Mn Inter-County Association)
- Consistent administration of wetlands replacement policies across all similar areas, particularly in the 50 to 80% pre-settlement wetlands area. Counties in the Twin City metropolitan area have higher replacement requirements, 2 acres for every 1 acre of wetland impacted than their non-metropolitan area counterparts even though the affected counties or portion of counties may be in the same 50 to 80% pre-settlement wetlands portion of the state. This unduly penalizes the affected metro counties when they build new roads to serve their growing communities. (Mn Inter-County Association)
- Conflict between wetlands replacement requirements and shoreland ordinance setback requirements. – The conflict between wetlands replacement requirements and state-mandated shoreland-ordinance setback requirements puts local zoning administrators between a rock and hard place having to on one hand tell owners they are too close to the lake, while also telling them they cannot build because of the wetland (or can fill in so little you effectively cannot build). Granting a variance from the setback requirement is the only alternative but that then creates a problem with other lakeshore owners, who had to comply with the setback requirements. (Mn Inter-County Association)
- Applications for all exemptions is a tough sell. Large tiling projects where there could be large impacts, there can be a benefit. On the other hand, in a county of 87% pre-settlement wetlands, any project (including a small 5' x 8' garden shed) would require an application, and amount of time and effort managing small scale projects with sequencing and applications would frustrate local citizens, local officials and would not necessarily contribute to the overall goal of WCA. (Lake of the Woods SWCD)

- MN Statute 103G.225 provides that the state shall allow necessary work for the proper use of public waters wetlands while still preserving them. While the District recognizes the statute indicates “If the state owns public waters wetlands...”, it seems compelling to consider that the Legislature may have intended establishment rather than fee ownership. In RCWD’s efforts to address its obligations as public drainage authority, when public drainage systems established about the turn of the previous century are found to be within much later established public waters wetlands, the public waters authority, DNR, does not have processes in place to address the statutory obligation to allow proper use and maintenance of the drainage system while still preserving the public waters wetlands. The conclusion of such discussions results in a DNR position of project prohibition or a RCWD obligation for wetland mitigation. (Rice Creek Watershed District)
- Seek legislative authority to require notification to BWSR for all projects currently exempted from permitting under WCA. This is very contentious but important to effectively understand contemporary changes that are rapidly occurring across watersheds. Without fully understanding these changes we will constantly be playing “catch up” to attempt to restore WQ via wetland resources. (MPCA)
- Merge planning outcomes under comprehensive wetland management plans with planning and implementation under 509 and related local water planning efforts and integrate their actions up to the scale of major watershed (8 digit HUC). (MPCA)
- Support and cooperate with joint online water permitting/certification applications. DNR has taken the lead and PCA ought to participate including NPDES, stormwater/industrial/municipal nondegradation and 401 certification reviews. (MPCA)
- Having US Army Corps of Engineer’s 404 activities recognized and coordinated with WCA implementation at the local level would be of great assistance, clarity and nearer to “one stop shopping” of project wetland impact considerations. (MPCA)
It would be useful to recognize Minnesota Water Quality Standards as having rules that also govern wetlands. These can be found at <https://www.revisor.mn.gov/rules/?id=7050.0186> (MPCA)
- Improve the commitment to environmental review as the “front line” of permitting with adequate staff in environmental review so potential issues; concerns and input are on the table at the very beginning. Better integrate monitoring data, standards, TMDLs and permitting into the environmental review process. This would serve to move things along more quickly without requiring applications to be redrafted and resubmitted. (MPCA)
- There should be additional streamlining of WCA and the “Swampbuster provisions” of the 1985 Food Security Act. There has been alignment and agreement between BWSR and NRCS, but additional efforts must be made to streamline and align state and federal wetland permitting, delineation, and identification processes. Additional efforts must also be made to further streamline state wetland rules with wetland permitting processes and requirements set forth by the US Army Corps of Engineers and Section 404 of the Clean Water Act. Farmers and landowners need consistency among wetland regulatory agencies and assurance that wetland decisions, identification methods and permitting process will not change from year to year. (Mn Department of Agriculture)
- Any system that would require replacing specific wetland functions versus the current system should be avoided. Replacing specific wetland functions can result in higher replacement costs and could entail additional efforts to restore or replace lost wetland functions. (Mn Department of Agriculture)
- Comprehensive Local Wetland Protection and Preservation Plans should be a tool to streamline and align local and state wetland rules, regulations and policy. The MDA is concerned that new local plans could place additional burdens on landowners and farmers that want to mitigate wetlands at the local level. (Mn Department of Agriculture)

- The Mn Complete Streets Law, MnDOT Road Design Manual, MNDOT Trail Design manual, and AASHTO Guide for the Development of Bicycle Facilities needs to be considered in the wetland banking rule. Failure to consider these documents results in eligibility of using BWSR wetland bank credits being questioned and at times denied, the Engineer's authority to make appropriate design decisions is undercut, can add extra costs due to purchasing wetland credits, impact timely project delivery, and takes power away from the local government and TEP. (Carlton County Highway Department, St. Louis County Public Works Department)
- Local implementation of WCA leads to hundreds of Local Governmental Units (LGUs), some of which are well-versed with WCA requirements, while others have very little experience or training. The LGUs are assisted by the Technical Evaluation Panel (TEP), one member of which is from the BWSR. The BWSR member should have the expertise in WCA, and through the BWSR member, the WCA requirements should be applied consistently statewide. WCA is applied with some variability, including the interpretations of the BWSR Wetland Specialists. (SEH)
- With as many as five agencies that regulate waters and wetlands, the process is inherently complicated and can be difficult for the public to navigate. To the greatest extent practicable, we are implementing our program in a manner that takes into account other relevant regulatory programs. There have been a number of efforts to streamline processes and there are additional opportunities, particularly with WCA and the Public Waters Program. Provided these opportunities satisfy our programmatic responsibilities under federal law, we would like to pursue measures to improve coordination of reviews and reduce permitting timeframes. (U.S. Army Corps of Engineers)
- The effort to streamline, reduce redundancies between state agencies, and make WCA work at the local level is long overdue. The state agencies responsible for wetlands and water quality regulations in Minnesota should be mandated to work together to eliminate redundant reviews of projects affecting wetlands and waters. This could be accomplished through the increased use of waivers and conditions of approval. Impacts to wetlands that improve water quality may provide overall net ecological benefits, but when viewed through the requirements of multiple agencies, may not be allowed. Greater flexibility should be considered for projects when there is a net environmental benefit. (SEH)
- Water and wetland regulations are complex, and made more so by the number of agencies that regulate these resources. While the WCA process tends to be prescriptive and work well most of the time, a single project may require permits from the WCA LGU, with coordination with members of the TEP, the DNR, PCA, and the Corps (and their coordination with multiple agencies including, U.S. Fish & Wildlife Service, the U.S. Environmental Protection Agency, the State Historic Preservation Office, and Tribal Governments). In addition, a local watershed district, water management organization, or local ordinance or comprehensive plan may require additional consultation before a decision is made. These agencies all have well-defined, jurisdictional limits, which in some instances limits redundancy, however, the added potential complexity for even very small projects is unnecessary. (SEH)
- BWSR should continue to work with the Corps to encourage consistency between the WCA and the Section 404 program. Where the programs are duplicative, mechanisms should be identified that would allow for streamlining. M.S. 103G.2375. ASSUMPTION OF SECTION 404 OF FEDERAL CLEAN WATER ACT was passed in 2012, we recommend that BWSR, along with DNR and PCA work together to identify and eliminate duplicative wetland and waters permitting standards and conditions enacted locally (through BWSR's administration of WCA), the state (through MPCA and DNR), and federally (through Section 404). The state should evaluate the overall measureable and long-term ecological, environmental, and socioeconomic benefits to both the wetland resource and the citizenry of Minnesota for having a multitude of local, state, and federal agencies involved in regulating Waters and Wetlands of the State. (SEH)

- The agencies that are identified through the routine permitting process (WCA, USACE, and DNR) generally work well together. Wetlands, as Waters of the State, are also regulated by the PCA through Minnesota Statute 103G and accompanying Rules 7050. These rules are enforced by the PCA, however PCA has no mechanism to participate in the regulatory process. Because M.R. 7050.0186 exists, legally, all wetland permit applications and wetland permits should be in compliance with this rule, but PCA is not formally advised or incorporated into proceedings processing following the Joint Notification for Wetlands/Waters Projects in Minnesota. This is problematic for several reasons: a) PCA has full legal authority over wetlands that are not regulated by WCA; b) PCA's involvement is often very late in the process because they are not involved in the initial joint-notification proceedings, thereby contributing to further permitting delays; and, c) PCA does not follow a formalized review program requiring timely comment and decision making, nor adhere to M.S. 15.99 which requires agencies to make a decision within 60 days of receipt of a complete application. M.S. 15.99 has been one of the most effective ways for both agencies and applicants to work together for timely submittal of complete information and review for equally timely decision-making. We suggest that under the circumstances presented above that PCA waive the 7050 requirements on the basis that they are highly redundant to other programs, and that the PCA has no process to implement the existing requirements. A more meaningful long-term resolution would be for repeal of M.R. 7050.0186 and other duplicative elements of M.R. 7050 in regard to Wetlands and Waters of the State that are redundant with both the Minnesota WCA administered by BWSR and the Public Waters Works Permitting Program administered by DNR. (SEH)
- The most significant fairness issue we see is that WCA is sometimes administered differently by different LGUs. Landowners are aware that there are differences in regulatory oversight making said oversight more difficult. (Stearns County)
- A requirement that exemptions necessitate an application would lead to more consistent sharing of information via the joint project application. (Stearns County)
- The existence of the wetland bank should be readily apparent to any buyer of the bank property. Perhaps a flag could be put on the deed so the county recorder could inform the LGU when a property with a bank is transferred to a new owner. (Stearns County)
- Because NRCS has to abide by its landowner privacy restrictions, there is a lack of communication between NRCS and the LGU. Landowners are done a disservice when they receive permission from NRCS to go ahead with a drainage projects and are later subject top WCA enforcement. Either NRCS should be more proactive in getting landowners to contact the LOGU, or the Federal Approvals exemption should be made active. (Stearns County)
- We are looking for a wetland regulatory and permitting regime that:
 - Is consistent, including the definition of a wetland, among all levels of government;
 - Is a transparent process that can easily be followed along the way;
 - Eliminates overlap among the different levels of government; and
 - Retains existing WCA agricultural exemptions. (Minnesota Farm Bureau)
- Lack of coordination with NRCS causes problems. Need to share, communicate and coordinate.
 - Have no real idea of the impacts from Agriculture Exemption. Need to require reporting under WCA? (Local Government Meeting – Grand Rapids)
- Permit to Mine:
 - Not following WCA banking standards.
 - Not following county planning (dumping in low land value counties without county input)
 - Suggest: separation of duties between Permit to Mine and mitigation approval.
 - Suggest: In Lieu Fee Programs
 - Suggest: mitigation ratio tied to wetland function of mitigation wetland and not just bank service area. (Local Government Meeting – Grand Rapids)

- US Army Corps of Engineers:
 - Varies by ACOE PM, some have great cooperation and coordination, others not so great.
 - 404 assumption
 - Partial assumption best, mitigation especially important,
 - WCA, concentrate on local smaller impacts, leave the multi- county and very large projects to ACOE.
 - GP to allow state process. (Local Government Meeting – Grand Rapids)
- Ditch maintenance issues - no review by NRCS when 1026 indicates "maintenance" (allowance for self-certification), but TEP review yields a lack of drainage feature and/or non-functional ditch and undrained land-use for very long periods of time (>25 years). In some cases, this can lead to wetland losses (in one case, (Morrison County) 44 acres of wetland could have been lost if TEP had not field checked and LGU denied drainage request). (Local Government Meeting – Detroit Lakes)
- Certified wetland determinations (CWDs) - LGUs are seeing numerous drainage projects (tiling) but few CWDs. (Local Government Meeting – Detroit Lakes)
- Lots of tiling of uplands (contributing watersheds for wetlands). (Local Government Meeting – Detroit Lakes)
- The original WCA funding formula never addressed the level of workload currently being witnessed on agricultural land - if BWSR (and the public) expect LGUs to do what is needed to implement WCA on agricultural land, drastic increases in funding are needed. (Local Government Meeting – Detroit Lakes)
- Interagency communication is an issue as NRCS staff are not telling landowners about WCA and the need to check with local governments. (Local Government Meeting – Detroit Lakes)
- Landowner self-certification is a huge problem. (Local Government Meeting – Detroit Lakes)
- Nearly all CWDs are done "in house" (off site determinations) without adequate field checking of current conditions - it's reflective of what's out there. (Local Government Meeting – Detroit Lakes)
- WCA needs to "stand alone" - marrying WCA to Swampbuster was/is a mistake as it leads to inconsistent answers to landowners - the first "Yes" the landowner gets, they move ahead regardless of what the other answer is. (Local Government Meeting – Detroit Lakes)
- Once a CWD is done, will the LGU or SWCD ever see the landowner again (CWD is permanent)? (Local Government Meeting – Detroit Lakes)
- Staff believe farmers should be subject to the same sequencing requirements as everyone else under WCA - do away with "sequencing flexibility" for farmers. (Local Government Meeting – Detroit Lakes)
- With current technology (LiDAR), counties should map all wetlands now (development of a basemap for the future) - the WCA version of a state-wide CWD. (Local Government Meeting – Detroit Lakes)
- The "6 of 10 prior to 1991" WCA exemption should go away - the intent was to "grandfather" wetlands with planting history once WCA passed (a compromise for the ag lobby), but it is different now. (Local Government Meeting – Detroit Lakes)
- BWSR should follow-up on past resolution to financially assist LGUs and SWCDs that are dealing with WCA violations and/or appeals. (Local Government Meeting – Detroit Lakes)
- WCA is a good law (Rule) but implementation is inconsistent across the State. (Local Government Meeting – Detroit Lakes)
- LGUs like the "streamlining" of the Ag Wetland Banking (AWB) process - should be applied to all banks. (Local Government Meeting – Detroit Lakes)
- Why did BWSR subscribe to allowing a "single user" banking system? Why can't the market drive the pricing and availability of credits for ag use? (Local Government Meeting – Detroit Lakes)
- The "in-lieu-fee" system seems to work in other states - MN should focus more on that system. (Local Government Meeting – Detroit Lakes)
- The increase in the Ag Wetland Banking process is overloading some LGUs. (Local Government Meeting – Detroit Lakes)

- Corps involvement / coordination works well depending on the project manager (PM) - long time PMs are better than the "newbies". (Local Government Meeting – Detroit Lakes)
- Corps involvement is better in central MN but "nonexistent" in west central and northwest MN. (Local Government Meeting – Detroit Lakes)
- Corps staff give inconsistent answers when asked the same question. (Local Government Meeting – Detroit Lakes)
- With a statewide program (WCA) why is 404 even a legitimate concern in MN? (Local Government Meeting – Detroit Lakes)
- 404 assumption by State (BWSR) should not happen without big money. (Local Government Meeting – Detroit Lakes)
- Universal notification for all wetland activities (including exemptions) is needed - some LGUs require applications for exempt activities as a local ordinance to achieve "full disclosure". (Local Government Meeting – Detroit Lakes)
- Partnering with federal agencies (NRCS especially) seems to be a one way street - always pushing more work onto the LGUs and SWCDs. (Local Government Meeting – Detroit Lakes)
- In addition to an overall review of the purpose and goals of WCA, identifying how state agencies implement laws that have bearing on WCA would be helpful. For example, there are some solid waste and landfill laws that may cause conflicts with WCA and these conflicts make the implementation of the program challenging as the local governments try to balance competing interests. Another discussion was seeing if drainage law could be made consistent with WCA, or vice versa. (Mille Lacs County)

Issue #4: Adequacy of Wetland Bank Program Funding.

- Any long-term funding requirement should be the responsibility of the bank owner and be set aside the bank is established. (U.S. Fish and Wildlife Service)
Improve funding and program support to assure long term management plans and effective instruments to service perpetual protective covenants on wetland replacement wetlands and debited wetland bank sites. (MPCA)
- The cost of future funding for monitoring or oversight of banking projects should be funded by wetland banking fees paid to BWSR. In addition the BWSR may want to charge a fee for wetland banking applications, or increase the fees for transactions. If the state is going to take responsibility for these sites into the future, the state needs to come up with their own funding mechanism that would come from the people that are benefiting from the banks (wetland bank creators). Or, each landowner should be responsible to keep the bank sites highly functioning. This is tough however, because people will not hold on to the properties as long as the conservation easement lasts. Ultimately it should be the landowner's responsibility. (Lake of the Woods SWCD)
- BWSR should further consider how to utilize its many partnerships with various non-governmental organizations to meet the responsibilities of coordinating and implementing wetland banking in Minnesota. BWSR may also want to consider working with the Legislature on wetland program initiatives to further incentivize long-term wetland maintenance efforts. (Mn Department of Agriculture)
- Long-term monitoring is necessary to ensure that these bank sites are maintained in accordance with the approved plans and in compliance with the recorded easement. We recommend additional discussion to identify the frequency at which established banks should be inspected and the level of effort put into those inspections prior to making decisions on funding resources and levels. (U.S. Army Corps of Engineers)

- With respect to long-term maintenance, our primary goal is to establish sites that are self-sustaining and function independent of human intervention. Long-term maintenance is addressed in the Federal rule which requires the bank sponsor to identify the party responsible for ownership and long-term maintenance, a description of the long-term maintenance needs, an estimate of the annual costs and the funding mechanisms used to meet those needs. We would be interested in the potential for the State to provide long-term maintenance of banks needing this support, while not relieving bank sponsors from this responsibility. (U.S. Army Corps of Engineers)
- The BWSR should consider wetland bankers as their customers, as wetland bank owners provide fees in exchange for administration of the program. In considering the wetland bankers as customers, the BWSR should be working with them more efficiently, and provide a better service. The banking program is a cornerstone of the WCA, and Minnesota is a leader in banking on a national scale. Yet applicants are discouraged from participating due to the lengthy times to get banks approved and credits certified because of a convoluted administrative process. Many of our clients would gladly pay higher fees if the process could be streamlined. Funding for the maintenance of wetland bank sites is critical, and we support an actuarial analysis of the program to determine the lifetime costs of a bank site, and establish appropriate annual fees. The continued improvement of site selection, increased use of restoration instead of creation, selection of larger and more stable sites, and less reliance on engineering should be encouraged to reduce the long-term costs of maintaining wetland bank sites in perpetuity. (SEH)
- The State's costs for wetland banking should be funded through both user fees and general funds. The banks serve a public benefit and both the bank owner and buyer of credits receive benefits and should bear the majority of the costs. Long-term maintenance should be funded by raising the administration fee by a few percent. The additional funding should be deposited into an account for the purpose of funding monitoring and maintenance. (Stearns County)
- Monitoring should continue for the life of the bank, but after a certain number of years could be done through imagery and an onsite review done on a reduced schedule. "Letting nature run its course would depend on the situation. Failure of a control structure would require attention, while a less desirable mix of vegetation should be accepted. (Stearns County)
- We would agree that ongoing maintenance and management costs need to be accounted for and a sustainable, reliable funding source needs to be identified to cover those costs. The first step is to do the best job possible of determining what future costs will be. (Minnesota Farm Bureau)
- Easement monitoring should be done by volunteers like the MN Land Trust does. (Local Government Meeting – Detroit Lakes)
- Consider payment schedule to local government and/or SWCDs for monitoring (payment of \$X per hour to account for easement differences) - flat rate does not work. (Local Government Meeting – Detroit Lakes)
- Consider a tiered system for monitoring - offsite vs onsite. (Local Government Meeting – Detroit Lakes)
- Banking Fees - do away with the fee schedule and keep 6.5% rate as it creates more revenue for monitoring. (Local Government Meeting – Detroit Lakes)

Issue #5: Costs and Benefits of Wetland Mitigation Targeted to Specific Watershed.

- State and federal policies should allow mitigation in Bank Service Area (BSA) 5 to be used to replace wetland impacts in BSA 2. Restricting mitigation will make mining replacement more difficult, expensive, very fragmented or infeasible. Restrictive policies will also make it more difficult to address water quality issues and the implementation of TMDLs. (Curtis Sparks)

- Use economic parity of existing wetlands to those being replaced. Economic parity would be based on land values, therefore values in the metro area being higher would require more replacement wetlands in an outstate area where land values are less. Another example would be in areas where 80% of the presettlement wetlands exist the land values may be less so this could require fewer acres of replacement wetlands in areas of higher land values. (John Dotolo, Mn Viewers Association)
- BWSR and the State of Minnesota need to further emphasize and implement a process for prioritizing wetland restoration locations. Further investigation should identify where the state of Minnesota can get its “best value” while also maintaining the intent of the Wetland Conservation Act specific to the state policy of no net loss of wetlands. (Rice Creek Watershed District)
- An in lieu fee program where you could replace impacts in areas that would benefit the most across the entire state (Red River basin and or southern MN where wetlands have been depleted), while still having some water quality benefit projects in the same watershed where the impacts are taking place (not necessarily wetland creation). In addition to utilizing local SWCD and other governments to locate and promote good projects; this would be a far superior process of wetland replacement as opposed to the wetland banking program that we have today. In the short term credits could be purchased from wetland bank holders, but in the long run that part of the program could be phased out to get better restoration projects. The only drawback to these ideas is that they will probably never fly with 404 and/or the ACOE. (Lake of the Woods SWCD)
- There should be additional flexibility in allowing wetland restorations to occur outside of the immediate watershed where the impacts took place. There have been recent concerns that wetland transfer from one region of the state to another could have negative ecological impacts. There should be additional study on this issue. (Mn Department of Agriculture)
- There should be additional study in to wetland mitigation costs and benefits and the related no-net-loss wetland policy of the state. There is little if any current information regarding wetland mitigation costs and benefits in relations to the associated societal gains of wetland mitigation. In addition, some economic costs are often not accounted for in some public mitigation projects such as land costs, administrative costs, implementation costs and delineation costs. (Mn Department of Agriculture)
- From an ecological perspective, siting of wetland replacement is best made as close to the impact area as practicable, and using the watershed approach is a reasonable method to preserve the amount of wetland within a local area when applying the goals of the WCA and the state’s water quality rules. However, this approach is sometimes impractical and deserves flexibility, particularly if there are few or no benefits to watershed health when compared to economic costs, or there are other adverse environmental impacts. Large areas of the state, particularly agricultural areas, have lost nearly all the wetlands historically present. While we do not want to see a loss of wetland area, functions, and values in our wetland-rich portions of the state without regard to project purpose and need and alternatives analysis, we believe great ecological benefit could be made by allowing a portion of replacement (e.g., above the 1:1 replacement ratio) in portions of the state with the greatest need for restoration and improving watershed health. In conjunction with this, the amount of wetland lost to agricultural exemptions needs to be discussed. While de minimis garners the most attention, the greatest loss of wetland is through agriculture, and is the area of the state that already has the greatest loss of wetlands and the greatest contribution to degraded water quality. We support the development of the agricultural wetland bank program to provide the opportunity to offset the large impacts from our agrarian areas of the state. (SEH)
- This area provides an opportunity for new and creative thinking. For example look at the larger projects being proposed such as mining in Northeast Mn. This could provide an opportunity to protect the resources in the area of the mine and while providing resources for mitigation in the Red River

Valley for projects focused on flood retention. Hopefully we will not let the “ideal” get in the way of the “doable”. (Mn Farm Bureau)

- The premise of looking for replacement within the same minor watershed is valid, although often not feasible. Requiring replacement within the same major watershed may not serve the same purpose, e.g. replacement in St. Cloud will have little benefit to an area impacted near Lake Osakis, 60 miles away. If an individual wishes to replace an impact further out, there should be an economic disincentive. This would be particularly true in the case of an impact in a less than 50% area being replaced in a greater than 80% area. Impacts in a less than 50% area should be replaced in less than 50% area. Replacement should be directed to specific conservation priority areas. (Stearns County)
- In Lieu Fee Programs would be a good option. (Local Government Meeting – Grand Rapids)
- Allow combining wetland restoration and clean water funding to allow larger projects with greater value to the resource. (Local Government Meeting – Grand Rapids)
- Include assessment of wetland function into the replacement ratio. (Local Government Meeting – Grand Rapids)
- The discussion about siting wetland replacement in the same watershed as the impact is an important and timely discussion. Rules regarding this issue are undoubtedly complicated by the federal policy for the Clean Water Act, but, it is important to formulate state rules so they make sense for Minnesota. The federal policy should not drive ours, so long as the rules in Minnesota do not contradict the CWA, forcing double mitigation.

I have searched for several wetland mitigation sites in northern Minnesota utilizing the NE Mitigation Study completed by BWSR. My impression of that study is that it far over-estimates the amount of possible restorable wetlands and possible sites that may be used for mitigation credits.

The policy that requires wetland mitigation in Bank Service Areas #1 and #2 does not serve to protect wetlands as it should; the policy creates unnecessary hardships for companies searching for mitigation sites; and the policy forces the companies seeking mitigation sites to target economically-viable land (at the mitigation site) in areas with limited resources for economic production. The counties and local government units, therefore, become frustrated because the county loses the agricultural productivity and they try to discourage mitigation banks in their counties. Although, the counties are legitimately concerned over these wetland restorations, they should not be able to control landowner decisions without an enforceable comprehensive wetland plan.

Applicants proposing to impact wetlands in BSA #1 and #2 should be allowed to mitigate at 1.5:1 ratios in areas of the state that have greater need for water quality benefits from wetlands without a requirement to exhaust all possibilities within the watershed of the impact. The purpose of a replacement wetland in the same watershed as the impact is to maintain the wetland benefits within that watershed. However, in watersheds with so many wetlands the benefits are minimal at best, especially when the replacement site is over 100 miles from the impact. To ensure that water quality does not diminish incrementally in BSA #1 and 2, project proponents could reduce their wetland mitigation ratio to 1:1 in other BSA's if they complete additional water quality projects within the impact watershed. Some logical projects within the watershed may include:

- Additional stormwater treatment: pervious pavement, green roofs, backfilling ditches, increased flood storage, etc.
- For mining projects:

- Mine reclamation projects that include wetland restorations on abandoned minelands or included in future reclamation lands;
- Designs of mine pits that include adjacent wetlands, littoral zones, etc. to create a more natural lake ecosystem.
- Conversion of incidental wetlands to regulated wetlands.
- Use of wetland creations – particularly in minelands and in old gravel pits
- Wetland mitigation at 0.5:1 within the BSA (at an existing bank or project-specific)
- Stream restorations, etc.

If appropriate projects cannot be agreed upon by a TEP, the applicant may use the 1.5:1 standard and mitigate in other parts of the state without additional review or approval. Therefore, it will be in the TEP's best interest to approve a local project that the applicant would prefer.

If reasonably-priced wetland bank credits are not available within the preferred BSA, there should not be a requirement for a comprehensive inventory within the BSA to prove no mitigation sites are available. Under current rules, project proponents must independently perform a search for wetland mitigation sites in the appropriate BSA. This is unnecessarily complicated, especially since the same search needs to be performed by each applicant - or as it becomes public, only by the first applicant to complete the search. Companies impacting wetlands should be able to mitigate in other areas of the state, either at higher ratios or with additional water quality projects in the watershed of the impacts.

Counties and LGU's would like to be more involved in the site selection for wetland banks or project-specific wetland mitigation because of their concern that they will lose productive farmland. However, by allowing the county to decide which site may or may not be enrolled in wetland banking, the private banking system does not function as it should and landowner's rights will be impinged. If landowners would like to convert their property into a wetland bank, they should be allowed to develop a bank on that site (assuming it is ecologically suitable). Counties have the ability to create a comprehensive wetland plan in order to guide the placement of wetland banking and mitigation sites. This public process should remain the standard for such planning; a company seeking wetland mitigation should not have to fit their site selection to match the preferences of a local board or agency staff. (Daniel Tix – Barr Engineering)

Issue #6: Strategic Use of Funding Sources to Achieve Continued Restoration of Drained Wetlands.

- Continue to support the work being done by the Service-led Prairie Pothole Region Integrated Landscape Conservation Strategy. This partnership is working to develop strategic priorities for targeting wetland and grassland restoration to benefit wildlife, water quality, flood reduction, and agricultural economic outcome. (U.S. Fish and Wildlife Service)
- Continue Land Exchange Board (LEB) support for State and Federal land acquisition. All land acquisitions using Duck Stamp dollars require approval of the Governor and LEB. Most of the land the Service acquires from willing landowners includes drained wetland and converted prairie. Once acquired the Service and our partners restore and manage wetlands and grasslands on these properties and promote public uses that include hunting, fishing, photography, bird watching, environmental education and interpretation. (U.S. Fish and Wildlife Service)
- BWSR and its partners should continue to work with Minnesota's farmers and landowners on the strategic targeting of wetland restorations. Specifically, wetland restorations should be targeted to areas that do not include large expanses of prime soils or other important soils used for agricultural production. (Mn Department of Agriculture)

- This strategy is an important component of the federal policy of no net loss of wetlands. No net loss is measured across the full range of wetland related programs implemented by the federal government including the Section 404 program and the ecosystem restoration authorities of our civil works program. (U.S. Army Corps of Engineers)
- All wetland restoration programs which receive public funding should be permanent. Current funding is inadequate. The price of commodities is very high. The amount of land that is being tilled and drained in central Minnesota is tremendous. The financial benefit to the agricultural producer must be great enough to persuade him to restore wetland rather than put it into crop production. (Stearns County)
- This is another area ripe for creative thinking. Currently there are restrictions on the use of public dollars for some this purpose. We need to look at how we can partner public and private dollars to achieve this purpose. Maybe we need to explore changing the criteria for the use of state dollars so we can get more projects on the ground. (Minnesota Farm Bureau)
- Target watersheds and allow flexibility in credit requirements to achieve restoration in those watersheds. (Local Government Meeting – Grand Rapids)
- Combined wetland restoration in targeted watershed with water resource restoration or enhancement within impacted watershed. (Local Government Meeting – Grand Rapids)
- Bring together wetland planning with water planning to equal watershed planning. (Local Government Meeting – Grand Rapids)
- Bring in local knowledge (SWCD, County staff) to help target watersheds and project sites. (Local Government Meeting – Grand Rapids)
- RIM/WRP is far more popular than banking due to lower "risk vs reward"(Local Government Meeting – Detroit Lakes)
- Restore wetlands where the greatest loss has occurred as more value is realized there. (Local Government Meeting – Detroit Lakes)
- Mirror the Reinvest in Mn process with funding priorities. (Local Government Meeting – Detroit Lakes)
- Compensation must align with current land values (make conservation/restoration just as lucrative as farming). (Local Government Meeting – Detroit Lakes)
- Allow a tax break for restored wetlands. (Local Government Meeting – Detroit Lakes)
- Bring back funding for the Wetland Preservation Area (WPA) program. (Local Government Meeting – Detroit Lakes)
- The State screwed the counties by cutting WPA funding. (Local Government Meeting – Detroit Lakes)
- Focus on restoration in Red River Valley area instead of impoundments. (Local Government Meeting – Detroit Lakes)
- Requiring "bounce" on wetland restorations is a Watershed District issue - has no value for wildlife habitat or water quality. (Local Government Meeting – Detroit Lakes)
- The landowner should decide whether bounce is allowed or not. (Local Government Meeting – Detroit Lakes)
- Allow some use of easements for vegetation management (haying, flash grazing) to benefit landowners - options increase landowner interest (if no use allowed, lower interest). (Local Government Meeting – Detroit Lakes)
- Target restorations to maximize benefits for the public, but it still comes down to willing landowners. (Local Government Meeting – Detroit Lakes)
- The regional planning effort for wetland protection could be a useful tool for looking at overall wetland values in particular regions of a watershed and move away from an arbitrary protection of wetland types. This could allow for local prioritization of the kind of wetland complexes that are missing and also allow for the exploration of large scale wetland complex restoration. (Mille Lacs County)

Other Issues.

- Wetland fill needed to improve safety has been mitigated on a greater than 1:1 ratio, typically 2:1. Data on total wetland acres filled and created as mitigation for public road safety projects should be examined. If this is a net positive result, efforts to solve wetland loss should be made elsewhere. (Blue Earth County Highway Department)
- The EQB is conducting a study on improving environmental review. The MPCA, DNR, and MnDOT are studying streamlining of water permits. These efforts need to be coordinated so consistent, implementable and simplified results occur. (Blue Earth County Highway Department)
- The report should recognize that we face challenges with the quality of our remaining wetlands; the causes are several and include pattern tiling and drainage of adjacent wetlands. Annual hydrology continues with fewer and fewer wetlands, often causing ditches to maintain higher flow, remaining wetlands often have more depth, and accommodate invading fish that harm both animal and vegetative sources that wildlife depends on. (Dave Zentner)
- Loss of property tax base for lands that are acquired for wetland mitigation and prairie restoration efforts. Townships stand to lose more of their respective tax bases than other entities. (Minnesota Association of Townships)
- Re-evaluate and amend the Minnesota Drainage Law (MN Statute 20911, Chapter 103E to recognize the value of wetlands and the environmental impacts of agricultural drainage projects. (U.S. Fish and Wildlife Service)
- Consider a state policy change to recognize agricultural tile drainage outlets as a “point source” discharge for water quality regulatory purposes. Numerous studies have documented the environmental impacts of tile effluent (i.e. sediment, nitrates, phosphorus) on downstream wetlands and waters of the State of Minnesota. (U.S. Fish and Wildlife Service)
- Agricultural exemptions within WCA need to be eliminated. As written these are based on the size of the impact and the wetland type affected by agricultural activities. To obtain a true “no net loss” policy these exemptions need to be eliminated or wetland mitigation/replacement needs to be required. The Service is not aware of any ecological justification for allowing certain types and sizes of wetland impacts to go unmitigated. (U.S. Fish and Wildlife Service)
- Due to the economic pressure farmers often find themselves in when offered more money to put their land into a wetland mitigation bank instead of farming it, much of the land that could be taken is productive farmland. This loss of productive farmland has numerous impacts that ultimately can negatively affect townships and rural lifestyles. (Minnesota Association of Townships)
- No plan to publicly acquire land should be approved until comprehensive management plans are developed and approved by all affected units of government and funding is fully secured to implement said plans. The concern is inadequate management of public lands, including eradication of noxious weeds. (Minnesota Association of Townships)
- BWSR should revisit the 2008 moratorium on the sale of wetland credits from the Road Program to local government road authorities. (St. Louis County Public Works Department and Mn Inter-County Association)
- On “no net loss,” I think that the statute has to take into consideration the functions and values without getting caught up in the acre for acre. Also the state needs to look at what is best for the state as well as the watershed impacted. In addition there are projects going on all the time that are protecting or restoring wetlands that do not get counted through the WCA. Nature conservancy, DU, DNR Land acquisitions, US Fish and wild life; all of these organizations are completing projects throughout the state including the Glacial Ridge project which has restored over 8,000 acres of wetlands. These and other projects restore wetlands or preserve them by eliminating future

development, but there are no credits given to the no-net-loss equation. In addition if the replacement credits are not "in place," "in advance," or "in kind," the replacement ratio goes up greater than 1:1, thus there is a net gain of wetlands state wide. I feel that WCA does a good job of minimizing impacts and replacing them. (Lake of the Woods SWCD)

- Conduct an intensive evaluation of select representative areas where WCA exempted wetland losses are estimated for extrapolation to the entirety of exemption losses across the state. (MPCA)
- There should be recognition of the plight of isolated (usually small) wetlands on the landscape. This is an important water quality issue. As we develop and reengineer the landscape for various reasons the tendency is for the plumbing connections to increase. This results in more efficient conveyances of pollutants (and pollution such as invasive species) to move through the watershed. It's all about increasing the drainage area which increases hydraulic energy, pollutant transport and downstream waters suffer greatly. To make water quality improvements we need to isolate parts of the watershed which reduces the load on downstream waters. This should be able to be improved through the banking programs with the right support and the right kind of targeting. Wetlands are not long term water quality treatment systems without limits and capacities. We should differentiate between wetlands protected for their inherent values and wetlands designed, operated and maintained as water quality treatment systems. (MPCA)
- There should be further research into the area of lateral effects of pattern tiling on types 1 and 2 wetlands to address concerns and inform policy decisions at the local and state level. (Mn Department of Agriculture)
- As a first priority for gathering information, that outreach to the citizenry of Minnesota for review of Executive Order 12-04 should have involved formal Public Notice for all individuals to be welcomed to participate. We understand the compressed schedule for delivering a report to the Executive Branch includes multiple staff over several agencies working quickly and collaboratively to address this request for information and present a meaningful summary report. However, inclusion of the citizenry of Minnesota through the use of formal written public comments, public hearings, and/or public open houses to encourage public participation should have been a greater part of the Governor's request for information. Select stakeholder groups were established by invitation from BWSR, which we believe has merit from the aspect that these groups have individualized knowledge of varying aspects of the state's wetland regulations. However, we believe the regional stakeholder outreach meetings were publicized in a manner that excluded the citizenry of Minnesota. We encouraged professionals in our industry, as well as those in professional associations in which we collaborate, to attend and participate in the regional stakeholder meetings. However, "word-of-mouth" publicizing these meetings is grossly inadequate in serving the state of Minnesota. We understand that in mid-September a notice on www.minnpost.com was made regarding the regional stakeholder meetings; this was within just a few days of the first stakeholder meeting held in Mankato, but was simply not enough time to notice the public. Although we attended two regional stakeholder meetings (Chisholm and Twin Cities Metro meetings), we were only made aware of these events through our involvement in attending June and September 2012 Inter-Agency Wetland Group meetings. Something as large, complex, and important as Minnesota's wetland regulatory program should be open to public discussion for the citizenry to participate on their will; this should not be completed through review of concerns through invitation only by BWSR, or through only select public announcements. (SEH)
- There is a need to evaluate the extent to which wetlands, especially temporary and seasonal wetlands, are being affected, both directly and indirectly due to the extensive, current installation of drain tile in the state. Drainage of temporary and seasonal (Type 1 and 2) wetlands on agricultural land is largely exempt under WCA and the state has limited ability to determine the extent to which such drainage is

being addressed under the Swampbuster provisions of the federal farm program. (Department of Natural Resources)

- Remove the DNR waiver to local governments for public waters wetlands, or make the waiver process equal. (Local Government Meeting – Detroit Lakes)
- The ditch maintenance exemption 25 year history versus abandonment is a tough issue - how do you prove abandonment? How do you prove "original condition" of the ditch? (Local Government Meeting – Detroit Lakes)
- Drainage maintenance should only be allowed with technical evaluation panel concurrence of system function and adjacent land use (ditch with cropland vs no ditch with forested wetland). (Local Government Meeting – Detroit Lakes)
- Drainage maintenance should align with December 23, 1985 timeline instead of a "25 year-rule". (Local Government Meeting – Detroit Lakes)
- Ditch vs tile maintenance - capacity is easier to ascertain with tile than with ditch. (Local Government Meeting – Detroit Lakes)
- Why is there always an interest in changing WCA anyway? (Local Government Meeting – Detroit Lakes)
- What's up with DNR Enforcement staff? Aquatic invasive species concerns have redirected staff to never deal with wetland issues. (Local Government Meeting – Detroit Lakes)
- DNR is the enforcer of WCA, not the local government. (Local Government Meeting – Detroit Lakes)
- Conservation Officers (CO) have less contact with landowners now than in the past - they expect local governments to do a majority of the work. (Local Government Meeting – Detroit Lakes)
- DNR enforcement staff seem to be less trained than they used to be - less knowledge of wetlands ecology. (Local Government Meeting – Detroit Lakes)
- The Wetland Resources Enforcement Officer (WREO) drives the CO response - if the WREO is good, the COs will be good to, if not ... (Local Government Meeting – Detroit Lakes)
- Do away with Initial Complaint Reports and bring back the Cease and Desist Orders - they work! (Local Government Meeting – Detroit Lakes)
- Rather than looking at a revision of the rule that modifies the program around the edges, it may be better if the entire program were reviewed to clarify the overall purpose of WCA. Through a multi-agency (MPCA, DNR, MD-Ag., USDA-NRCS, USDOD-ACOE, others) discussion, if the state could restate the overall purpose of WCA and get at least the state agencies on the same page for the overall outcomes and goals that they would like to see from WCA, the local governments can reinvigorate their implementation of a program that they know has a common vision throughout the state. Using this overall restatement of the purpose of WCA could also serve as a powerful tool for assessing if the rule still meets the intent of the WCA or if BWSR has drifted into a bureaucratic exercise that misses the spirit of the law. (Mille Lacs County)
- There was some gentle advice offered that BWSR may want to review the process that MPCA went through regarding their Septic rule rewrite and the DNR went through regarding their shoreland recommendations. There was some resistance to the rule rewrites for these two programs at the local level and BWSR, through the agency's commitment to local implementation, may be able to develop a stronger program with more local buy-in by avoiding some of the mis-steps regarding these previous rule revisions. (Mille Lacs County)
- Finally, as this is the 20th anniversary of WCA, this is a really good time for an overall program review. When WCA was passed and signed, it was a landmark piece of conservation legislation that put Minnesota at the forefront of wetland conservation. LGUs are proud of this heritage and would like to make sure that we are living up to the original intent of the law and doing our best to protect Minnesota's vital wetland resources. (Mille Lacs County)